

**Internal Revenue Service**

Appeals Office

2525 Capitol Street, Suite 201

Fresno, CA 93721

Date: June 4, 2013

**Department of the Treasury**

**Taxpayer Identification Number:**

**Person to Contact:**

A

B

Release Number: **201335023**

Release Date: 8/30/2013

**Tax Period(s) Ended:**

UIL: 501.03-02

**Certified Mail**

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the "Code"). It is determined that you do not qualify as exempt from Federal income tax under section 501(c)(3) of the Code effective November 1, 2008.

The revocation of your exempt status was made for the following reason(s):

A substantial amount of your organization's assets inured to the private benefit of your founder. Because a substantial amount of your charitable assets were used for private purposes, the organization is not operated exclusively for exempt purposes described in section 501(c)(3) of the Code.

Contributions to your organization are not deductible under section 170 of the Code.

You are required to file Federal income tax returns on Forms 1120 for the tax periods stated in the heading of this letter and for all tax years thereafter. File your return with the appropriate Internal Revenue Service Center per the instructions of the return. For further instructions, forms, and information please visit [www.irs.gov](http://www.irs.gov).

If you were a private foundation as of the effective date of revocation, you are considered to be taxable private foundation until you terminate your private foundation status under section 507 of the Code. In addition to your income tax return, you must also continue to file Form 990-PF by the 15th Day of the fifth month after the end of your annual accounting period.

You have waived your right to contest this determination under declaratory judgment provisions of section 7428 of the Internal Revenue Code.

You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court. The Taxpayer Advocate can however, see that a tax matters that may not have been resolved through normal channels get prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You may call toll-free, 1-877-777-4778, for the Taxpayer Advocate or visit [www.irs.gov/advocate](http://www.irs.gov/advocate) for more information.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely Yours,

Appeals Team Manager

Enclosure: Publication 892

**Internal Revenue Service**

**Department of the Treasury**

Date: **APR 24 2012**

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

**Certified Mail - Return Receipt Requested**

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, please sign and return the enclosed Form 6018, Consent to Proposed Adverse Action. We will send you a final modification or revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended	
ORG	EIN	October 31, 20XX	

**LEGEND**

ORG - Organization name XX - Date Address - address City - city State - state Country - country EIN - ein CO-1 - 1st COMPANY

**Issue:**

Is the ORG an organization exempt from tax under section 501(c)(3) of the Internal Revenue Code?

**Facts:**

ORG received a letter of determination dated May 7, 20XX, from the Internal Revenue Service recognizing it as a private foundation exempt from tax under section 501(c)(3) of the Internal Revenue Code.

The organization filed a Form 990-PF for the period ending October 31, 20XX, with was received by the Internal Revenue Service on April 12, 20XX.

The return showed the book value of land, building and equipment of \$ as of October 31, 20XX and the cost basis of \$. The total assets of the organization were listed as \$ as of October 31, 20XX

The return also showed travel expenses of \$

Total income of the organization was a \$ contribution. Expenses were, \$\$ in depreciation, the \$ travel expense, \$ in bank service charges, a \$ filing fee and a \$ donation to the CO-1, STATE.

Upon inquiry by the Internal Revenue Service, the organization stated that the cost of the assets was, \$ for a piano, which it stated was used weekly for choir practice, \$ for a computer, \$ for an automobile used to visit other non-profit organizations and \$ for leasehold improvements used as a facility for programs and youth. The leasehold improvements were made at ADDRESS, CITY, STATE, which is the address of the organization and also the residence of the President of the organization.

The travel expense was airfare between CITY and COUNTRY.

Upon further inquiry by the Internal Revenue Service, the organization stated that the piano and the automobile and the leasehold improvements were available for personal use by family of the president. The leasehold improvement was for a 460 square foot study room at the rear of ADDRESS. The airfare was for personal use and the organization stated it was "filled by mistake" but did not state if the organization had been reimbursed.

The Internal Revenue service had also requested a list of events held by the organization, including a description, membership, attendance and supporting documentation. The organization stated that its activities included, but were not limited to bible study, choir and fellowship. It did not provide any documentation.

It also stated that the automobile was used for visiting other non-profit organizations, church meetings, prayer meetings and to transport elderly to church and other church related works. The organization had no record of use of the automobile for either business or personal use. The automobile was a Mercedes-Benz and the registered owner was the president of the organization.

**Law:**

Section 501(c)(3) of the Internal Revenue Code provides for exemption from tax for "Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition ... or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>		Schedule number or exhibit
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ORG	EIN	October 31, 20XX	

Section 1.501(c)(3)-1(c) of the income tax regulations provides that (1) Primary activities. —An organization will be regarded as “operated exclusively” for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. —An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.”

In *Better Business Bureau v. United States*, 326 U.S. 279, 283, the court stated that the presence of a single substantial nonexempt purpose precludes exempt status for an organization, regardless of the number or importance of the exempt purposes.

#### Government’s Position:

In this instance the organization has provided no evidence other than its own statements, that it has any charitable program whatsoever. Even if it had a charitable program, almost all of the assets consists of an addition to the president’s home, a luxury automobile available for the president’s personal use, and a piano in the president’s home. The organization paid for airfare for the president’s trip to COUNTRY, which it admitted was not for exempt purposes.

The presence of any substantial non-exempt purpose precludes exempt status. In this case, the organization has a substantial non-exempt purpose, which is to provide benefits to its president. Therefore it is not exempt under section 501(c)(3) of the Internal Revenue Code.

#### Taxpayer’s Position:

The taxpayer has not submitted its position.

#### Conclusion:

Exemption under section 501(c)(3) of the Internal Revenue Code is revoked for ORG effective November 1, 20XX.